IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

FRIDAY, THE 13TH JULY 2007 / 22ND ASHADHA 1929

WP(C).No. 511 of 2006(J)

OS.1712/2001 of PRL.M.C.,IRINJALAKUDA
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PETITIONER:

MARIAM, W/O. VARUNNY,
AGED 69 YEARS, KUNNATHUPARAMBAN HOUSE,
NANDIPULAM P.O., TRICHUR.

BY ADV. SRI.RENJITH THAMPAN
SMT.P.A.ANITHA

RESPONDENTS:
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1. DEVASSY, S/O. LONAKUTTY,
KURICHIPARAMBIL HOUSE, NANDIPULAM P.O., TRICHUR.

2. ROSILY, W/O. DEVASSY, -DO- -DO-.

3. LONAKUTTY @ KOCHULONAPPAN,
-DO- -DO-.

BY ADV. SRI.K.S.BHARATHAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 13/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1 : TRUE COPY OF THE APPLICATION FILED BY THE PETITIONER AFTER ISSUANCE OF COMMISSION, IA NO.3572/02, IN OS.1712/01.

EXT.P2 : TRUE COPY OF THE CHALLAN RECEIPT DT.12.12.02.

PIUS C. KURIAKOSE, J.

W.P.(C) No. 511 OF 2006

Dated this the 13th day of July, 2007

JUDGMENT

The grievance of the petitioner who is the plaintiff in a suit for fixation of boundaries is that the trial court has dismissed the application for commission for measurement and fixation of boundaries on the basis of the interim report submitted by the advocate commissioner. Though the learned counsel for the petitioner was directed to make available a copy of the interim report, she has not been able to do so. Mr.Bharathan has placed before me an interim report dt.13.08.04 filed by Sri.M.S.Rajesh, advocate commissioner. In this interim report Sri.Rajesh states that for want of production of documents by the parties he finds it extremely difficult to execute the warrant which had been given to him. It is not clear from a reading of the order dt.11.11.05 (which is impugned in this writ petition) as to whether the learned Munsiff had kept the interim report of the advocate commissioner, Sri.Rajesh, in mind while passing that order. Whatever that be, it cannot be denied that fixation of the boundary on the basis of a correct measurement of the properties is absolutely necessary for taking correct decision in the suit which is one for fixation of boundary. Under these circumstances I am of the view that the petitioner plaintiff should be

given one more opportunity to have a measurement of the properties and the fixation of the boundary done. Accordingly, even as I refuse to set aside the impugned order, I permit the petitioner to produce all documents necessary for conducting a measurement of the properties in question and for fixation of the disputed boundary including the documents which are referred to by Advocate Sri.M.S.Rajesh in his interim report dt.13.08.04 before the court below within six weeks from today and file an application for reviewing the impugned order and seeking deputation of the advocate commissioner once again. If documents are produced and an application as directed above is filed within the stipulated time, the court below will favourably consider that application.

PIUS C. KURIAKOSE, JUDGE

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